

**COUNCIL REGULATION (EEC) No 780/86****of 24 February 1986****concerning the conclusion of the Agreement between the European Economic Community and the Government of the Democratic Republic of Madagascar on fishing off the coast of Madagascar**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Whereas it is in the Community's interest to approve the Agreement between the European Economic Community and the Government of the Democratic Republic of Madagascar on fishing off the coast of Madagascar, signed in Tananarivo on 28 January 1986,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Agreement between the European Economic Community and the Government of the Democratic

Republic of Madagascar on fishing off the coast of Madagascar is hereby approved on behalf of the Community.

The text of the Agreement is annexed to this Regulation.

*Article 2*

The President of the Council shall give the notification provided for in Article 15 of the Agreement <sup>(2)</sup>,

*Article 3*

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 24 February 1986.

*For the Council*

*The President*

G. BRAKS

<sup>(1)</sup> OJ No C 141, 10. 6. 1985, p. 496.

<sup>(2)</sup> The date of entry into force of the Agreement will be published in the *Official Journal of the European Communities* by the General-Secretariat of the Council.

**AGREEMENT****between the European Economic Community and the Government of the Democratic Republic of Madagascar on fishing off Madagascar**

THE EUROPEAN ECONOMIC COMMUNITY,

hereinafter referred to as the 'Community', and

THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF MADAGASCAR,

hereinafter referred to as 'Madagascar',

CONSIDERING the spirit of cooperation resulting from the ACP-EEC Convention and the good cooperative relations between the Community and Madagascar;

CONSIDERING the desire of the Government of Madagascar to promote the rational exploitation of its fishery resources by means of intensified cooperation;

CONSIDERING the regional project for the development of commercial tuna fishing in the South-West Indian Ocean;

RECALLING THAT, in respect of sea fishing, Madagascar exercises its sovereignty or jurisdiction over a zone extending up to 200 nautical miles from its coast;

TAKING INTO ACCOUNT the work of the Third United Nations Conference on the Law of the Sea;

DETERMINED to conduct their relations in a spirit of mutual trust and respect for each other's interests in the sphere of sea fishing;

DESIROUS of establishing the terms and conditions governing fishing activities of common interest to both parties,

HAVE AGREED AS FOLLOWS:

*Article 1*

The purpose of this Agreement is to establish the principles and rules which will in future govern, in all respects, the fishing activities of vessels flying the flags of Member States of the Community, hereinafter referred to as 'Community vessels' in the waters over which Madagascar has sovereignty or jurisdiction in respect of fisheries, hereinafter referred to as 'Madagascar's fishing zone'.

*Article 2*

The Government of Madagascar shall permit fishing by Community vessels in Madagascar's fishing zone in accordance with this Agreement and shall ensure ease of access to the port facilities required for the fishing activities of Community vessels operating in the Indian Ocean.

*Article 3*

1. The Community hereby undertakes to take all appropriate steps to ensure that its vessels observe the provisions of this Agreement and the rules and regulations governing fishing in Madagascar's fishing zone.
2. The authorities of Madagascar shall notify the Commission of the European Communities of any proposed changes to the said rules and regulations.

*Article 4*

1. Fishing activities by Community vessels in Madagascar's fishing zone shall be subject to possession of a fishing licence issued at the Community's request by the authorities of Madagascar.
2. The authorities of Madagascar will issue fishing licences within the limits laid down by category of vessel in the Protocols referred to in Article 7 of this Agreement.
3. Licences shall be valid in the defined zones according to the activity and type of the vessels in question.
4. The validity of tuna-fishing licences shall correspond to the periods of validity of this Agreement as laid down in Article 14, although the number of tuna boats carrying out their activities simultaneously may not exceed the number laid down in Article 1 of Protocol 1.
5. Licences for the species referred to in Protocol 2 shall be valid, at the request of the shipowner, for periods covering full months.
6. A licence shall be issued for a given vessel and shall not be transferable.

7. At the request of the Community and particularly in the event of *force majeure* a vessel's fishing licence may be replaced by a licence for another vessel of which the capacity does not exceed that of the vessel to be replaced.

#### Article 5

1. Fishing licences shall be issued by the authorities of Madagascar subject to payment of a fee by the shipowner concerned.

2. The fee for a tuna-fishing licence shall be set per tonne of tuna caught in Madagascar's exclusive economic zone.

The fee for a fishing licence for the species covered by Protocol 2 shall be set according to the number of gross register tonnes per month admissible under the licence, in proportion to the period for which the licence is valid.

The amount of these fees and the methods of payment are set out in the Annex.

#### Article 6

The Parties undertake to consult each other, either directly or within international organizations, to ensure the management and conservation of the living resources in the Indian Ocean, and to facilitate the relevant scientific research.

They will exchange studies and information relating to oceanography, marine biology and fishing statistics, and they will pass on the results of their scientific research on these subjects.

#### Article 7

In return for the fishing opportunities granted under Article 2, the Community will contribute, in accordance with the conditions and arrangements stipulated in the Protocols annexed to this Agreement, to the execution of projects connected with the development of Madagascar's fishing industry without prejudice to the financing received by Madagascar under the ACP-EEC Convention.

#### Article 8

The Parties undertake to examine in the most objective and conciliatory spirit any difference of opinion arising from the interpretation or application of this Agreement, with a view to overcoming the difficulty.

#### Article 9

A Joint Committee shall be set up to ensure that this Agreement is applied correctly.

The Committee shall meet, at the request of either Contracting Party, alternately in Madagascar and in the Community.

#### Article 10

Should the authorities of Madagascar decide, as a result of developments in the state of stocks, to take conservation measures which affect the activities of Community vessels, consultations shall be held between the Parties in order to adapt the Annex referred to in Article 5 and the Protocols referred to in Article 7 of this Agreement.

#### Article 11

Nothing in this Agreement shall affect or prejudice in any manner the view of either Party with respect to any matter relating to the Law of the Sea.

#### Article 12

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Democratic Republic of Madagascar.

#### Article 13

The Annex and the Protocols shall form an integral part of this Agreement and, unless otherwise specified, a reference to this Agreement shall constitute a reference to the Annex and Protocols.

#### Article 14

This Agreement shall be concluded for an initial period of three years from the date of its entry into force. Unless one of the Parties ends it by giving notice to that effect six months before the date of expiry of the three-year period, it shall remain in force for further periods of two years unless denounced by notice given at least three months before the date of expiry of each such two-year period.

In that event the Parties shall enter into negotiations to determine by agreement what amendments or additions to the Annex or Protocols required.

#### Article 15

This Agreement shall enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for this purpose.

#### Article 16

This Agreement, drawn up in duplicate in the Danish, German, Greek, English, French, Italian, Dutch and Malagasy languages, each of these texts being equally authentic, shall be deposited in the archives of the General-Secretariat of the Council of the European Communities, which shall transmit a certified copy to each of the Parties.

Udfærdiget i Antananarivo, den otteogtyvende januar nitten hundrede og seksogfirs.

Geschehen zu Tananarivo am achtundzwanzigsten Januar neunzehnhundertsechszundachtzig.

Έγινε στην Ταναναρίβη, στις είκοσι οκτώ Ιανουαρίου χίλια εννιακόσια ογδόντα έξι.

Done at Antananarivo on the twenty-eighth day of January in the year one thousand nine hundred and eighty-six.

Fait à Antananarivo, le vingt-huit janvier mil neuf cent quatre-vingt-six.

Fatto a Antananarivo, addì ventotto gennaio millenovecentottantasei.

Gedaan te Antananarivo, de achtentwintigste januari negentienhonderd zesentachtig.

Natso tato Antananarivo, ny faha-valo amby roa-polo janoary anina amby valo-polo ay sivin-jato sy arivo.

For Rådet for De europæiske Fællesskaber

Für den Rat der Europäischen Gemeinschaften

Για το Συμβούλιο των Ευρωπαϊκών Κοινοτήτων

For the Council of the European Communities

Pour le Conseil des Communautés européennes

Per il Consiglio delle Comunità europee

Voor de Raad van de Europese Gemeenschappen

Ny ri an-kavritry ry Communautés européennes

For regeringen for Den demokratiske republik Madagaskar

Für die Regierung der Demokratischen Republik Madagaskar

Για την κυβέρνηση της Λαϊκής Δημοκρατίας της Μαδαγασκάρης

For the Government of the Democratic Republic of Madagascar

Pour le gouvernement de la république démocratique de Madagascar

Per il governo della Repubblica democratica del Madagascar

Voor de Regering van de Democratische Republiek Madagascar

Ny Governamantan'ny Reoblika Demokratika Malagasy

## ANNEX

**Conditions governing the pursuit of fishing activities by Community vessels in Madagascar's fishing zone**

1. The relevant Community authorities shall, after payment of the fees by shipowners, present to the relevant Malagasy authorities an application for each vessel that wishes to fish under the Agreement.

For all payments of fees provided for in this Annex, supporting documents will be sent to the relevant Commission departments.

The Malagasy authorities shall then forward the licence provided for in Article 4 of the Agreement to the Delegation of the Commission of the European Communities in Antananarivo.

2. Provisions for tuna boats :

- (a) The fees provided for in Article 5 of the Agreement and payable by the owners of the vessels referred to in point 1 are hereby set at 20 ECU per tonne of tuna caught in Madagascar's fishing zone.
- (b) Once the Agreement enters into force, the sum of 15 000 ECU shall be paid by tuna-boat owners to the Treasury of Madagascar as an advance on the fees.
- (c) A provisional statement of the fees due in respect of each fishing year shall be drawn up at the end of each calendar year, on the basis of the catch statements drawn up by shipowners and forwarded simultaneously to the Malagasy authorities and to the relevant authorities of the Commission of the European Communities. The corresponding amount shall be paid to the Treasury of Madagascar no later than 31 January of the following year.

The final statement of the fees due in respect of a fishing year shall be drawn up by the relevant authorities of the Commission of the European Communities, taking into account available scientific opinions particularly of experts from the FAO (Food and Agriculture Organization) and the CNRO (National Centre for Oceanographic Research) established in Madagascar, and any statistical data which can be gathered by an international fishing organization in the Indian Ocean.

The shipowners shall be notified of the statement and shall have 30 days in which to meet their financial obligations.

- (d) Upon expiry of the Agreement, the sum paid as an advance by tuna-boat owners shall be deducted from the final payment ; however, if the amount of the sums due for actual fishing operations in the course of the first year does not equal the advance, the corresponding balance remaining shall not be reimbursable.
- (e) Tuna boats shall take observers on board at the request of the Malagasy authorities. The time spent by the observer on board shall be fixed by the Malagasy authorities, but, as a general rule, an observer must not be present for longer than the time required to make spot checks on the catches.
- (f) Shipowners shall be obliged to be represented by an agent in Madagascar.

3. Provisions for deep-water crustacean fishing :

- (a) During the reconnaissance campaigns referred to in Protocol 2 the annual fees for fishing authorizations amount to :
  - 25 ECU per gross register tonne for nephrops fishing,
  - 25 ECU per gross register tonne for crab fishing,
  - 25 ECU per gross register tonne for deep-water shrimp fishing,
  - 25 ECU per gross register tonne for fishing for species other than deep-water crustaceans.
- (b) The payment of fees for species other than tuna may, at Madagascar's request, be replaced in part by landings of fish in accordance with procedures to be fixed by the Joint Committee referred to in Article 9 of the Agreement.
- (c) Moreover, at the request of the Malagasy authorities, vessels fishing for deep-water crustaceans shall sign on :
  - for the term of validity laid down in Article 1 of Protocol 2, a Malagasy scientist capable of analysing the results of the reconnaissance campaigns,

— for the remaining 18 months of the first period of application provided for in Article 14 of the Agreement, a Malagasy fisherman to carry out the role of observer over and above his seaman's duties; such member of the crew carrying out the duties of observer shall have access to the places and documents necessary for these purposes.

4. Before the Agreement comes into force the Malagasy authorities shall give notice of the arrangements for the payment of fees, and in particular the account and currencies to be used.
  5. While they are engaged in fishing activities in Madagascar's fishing zone, vessels shall communicate to the Antsiranana radio station, every three days, their position and catches and, at the end of each trip, the result of their catches. The Malagasy authorities shall forward data on the state of catches twice a year to the Delegation of the Commission of the European Communities in Antananarivo.
  6. The shipowner shall make a payment of 10 ECU to the Malagasy Government for each day spent by an observer on board a tuna boat.  
  
Should a tuna boat with a Malagasy observer on board leave Madagascar's fishing zone, every step will be taken to ensure that the observer returns to Madagascar as soon as possible, at the shipowner's expense.
  7. (a) Every vessel fishing for deep-water crustaceans must employ a Malagasy seaman.  
(b) For the ocean-going tuna fleet, two Malagasy seamen shall be signed on permanently for the duration of the fishing year.  
(c) Should the Malagasy side not have any applicants to propose, these commitments must be replaced by a flat-rate sum equivalent to 50 % of the wages of these seamen in proportion to the duration of the season; this sum will be used for the training of Malagasy fishermen.
  8. Community vessels shall have access to all the waters outside the limit of the first two nautical miles of the waters under Madagascar's jurisdiction. Vessels fishing for deep-water crustaceans may not fish at depths less than the 200 m isobath.
  9. The authorities of Madagascar and the beneficiaries of the Agreement will lay down the conditions for using port facilities.
-

**PROTOCOL 1****between the European Economic Community and the Government of the  
Democratic Republic of Madagascar on tuna fishing***Article 1*

Pursuant to Article 2 of the Agreement and for the period of application of this Protocol, which is limited to three years, tuna-fishing licences in Madagascar's fishing zone shall be issued for 27 ocean-going freezer tuna boats, although the number of such vessels fishing simultaneously may not exceed 18. The relevant Community authorities shall communicate at regular intervals the list of vessels fishing under these rules.

*Article 2*

The amount of the contribution referred to in Article 7 of the Agreement shall be fixed at a flat-rate of at least 900 000 ECU for the duration of the Protocol, payable in three equal annual instalments. This amount shall cover the fishing activities referred to in Article 1 up to, in the case of tuna fishing, a catch weight in Madagascar's fishing zone of 6 000 tonnes of tuna fish per year; if the amount of tuna caught by Community vessels in Madagascar's fishing zone exceeds this quantity, the abovementioned amount shall be increased accordingly; however, irrespective of the amount actually caught, the ceiling for financial compensation shall be fixed at 3 000 000 ECU for the duration of the Protocol, and hence at 1 000 000 ECU per year.

*Article 3*

During the first period of application of the Agreement, the Community shall contribute the sum of 350 000 ECU

towards the financing of a scientific programme in Madagascar to gain greater knowledge of the fishery resources in the region of the Indian Ocean surrounding Madagascar.

At the request of the Government of Madagascar, this contribution may go towards the cost of international meetings to improve both the aforesaid knowledge and the management of fishery resources.

*Article 4*

The two Parties hereby agree that an essential condition for the success of their cooperation is that the skills and know-how of persons engaged in sea fishing be improved. To this end, the European Economic Community will make it easier for nationals of Madagascar to find places in establishments in its Member States and will provide 10 study grants for three-year courses and five grants for six-month further training courses, or their annual equivalent, in the various scientific, technical and economic subjects relating to fisheries.

*Article 5*

In the event of substantial growth of the Community fleet, the two Parties will enter into negotiations with a view to reviewing this Protocol and making any amendments they might consider appropriate.

---

## AGREEMENT

**amending the Agreement between the European Economic Community and the Government of the Democratic Republic of Madagascar on fishing off the coast of Madagascar, signed at Antananarivo on 28 January 1986**

### *Article 1*

Protocol 1 annexed to the Agreement between the European Economic Community and the Government of the Democratic Republic of Madagascar on fishing off the coast of Madagascar is hereby amended as follows:

1. Article 1 is replaced by the following:

#### *'Article 1*

Pursuant to Article 2 of this Agreement and for the period of application of this Protocol, which is limited to three years, tuna-fishing licences in Madagascar's fishing zone shall be issued for 49 ocean-going freezer tuna boats, although the number of such vessels fishing simultaneously may not exceed 33. The relevant Community authorities shall communicate at regular intervals the list of vessels fishing under these rules.'

2. Article 2 is replaced by the following:

#### *'Article 2*

The amount of the contribution referred to in Article 7 of the Agreement shall be fixed at a flat-rate of at least 1 530 000 ECU for the duration of the Protocol, payable in three equal annual instalments. This amount shall cover the fishing, a catch weight in Madagascar's fishing zone of 10 200 tonnes of tuna fish per year; if the amount of tuna caught by Community vessels in Madagascar's fishing zone exceeds this quantity, the abovementioned amount shall be increased accordingly; however, irrespective of the amount actually caught, the ceiling for financial compensation shall be fixed at 3 000 000 ECU for the duration of the Protocol, and hence at 1 000 000 ECU per year.'

### *Article 2*

In the Annex to the Agreement between the European Economic Community and the Government of the Democratic Republic of Madagascar on fishing off the coast of Madagascar, point 2 (b) is replaced by the following:

- '2 (b) The sum of 555 ECU shall be paid each year by owners for each tuna-boat to the Treasury of Madagascar as an advance on the fees.'

### *Article 3*

This Agreement, drawn up in duplicate in the Danish, German, Greek, English, Spanish, French, Italian, Dutch, Portuguese and Malagasy languages, each of these texts being equally authentic, shall enter into force on the date of its signature.

It shall apply from 28 November 1986.

---

**AGREEMENT**

**in the form of an Exchange of Letters concerning the provisional application of the Agreement amending the Agreement between the European Economic Community and the Government of the Democratic Republic of Madagascar on fishing off the coast of Madagascar signed at Antananarivo on 28 January 1986**

*A. Letter from the Government of Madagascar*

Sir,

With reference to the draft Agreement between the European Economic Community and the Government of the Democratic Republic of Madagascar, initialled on 28 November 1986, amending the Agreement on fishing off the coast of Madagascar, signed at Antananarivo on 28 January 1986, I have the honour to inform you that the Government of Madagascar is ready to apply this draft Agreement on a provisional basis, with effect from 28 November 1986, until its entry into force in accordance with Article 3 of the said Agreement, provided that the European Economic Community is disposed to do the same.

This is on the understanding that payment of the difference between the financial compensation paid for the first year of application of the Protocol and the first instalment of the financial compensation fixed by Article 1 (2) of the amended Protocol is effected by 15 March 1987.

I should be obliged if you would confirm the European Economic Community's agreement to such provisional application.

Please accept, Sir, the assurance of my highest consideration.

*For the Government  
of the Democratic Republic of Madagascar*

B. *Letter from the European Economic Community*

Sir,

I am in receipt of your letter of today's date, which reads as follows:

'With reference to the draft Agreement between the European Economic Community and the Government of the Democratic Republic of Madagascar, initialled on 28 November 1986, amending the Agreement on fishing off the coast of Madagascar, signed at Antananarivo on 28 January 1986, I have the honour to inform you that the Government of Madagascar is ready to apply this draft Agreement on a provisional basis, with effect from 28 November 1986, until its entry into force in accordance with Article 3 of the said Agreement, provided that the European Economic Community is disposed to do the same.

This is on the understanding that payment of the difference between the financial compensation paid for the first year of application of the Protocol and the first instalment of the financial compensation fixed by Article 1 (2) of the amended Protocol is effected by 15 March 1987.

I should be obliged if you would confirm the European Economic Community's agreement to such provisional application.'

I have the honour to confirm the European Economic Community's agreement to such provisional application.

Please accept, Sir, the assurance of my highest consideration.

*For the European Economic Community*

---

**PROTOCOL 2**

**between the European Economic Community and the Government of the Democratic Republic of Madagascar on types of fishing other than those covered by Protocol 1**

*Article 1*

Pursuant to Article 2 of the Agreement and for the period of application of this Protocol, which is limited to 18 months, authorizations to fish in Madagascar's fishing zone for crabs or deep-water shrimps, in the context of reconnaissance campaigns, shall be granted for up to an annual average of 5 000 gross registered tonnes per month.

*Article 2*

Without prejudice to Protocol 1, the financial contribution referred to in Article 7 of the Agreement shall be fixed at a flat-rate of 375 000 ECU per year for the duration of reconnaissance campaigns, including a contribution towards the financing of a scientific programme in Madagascar to gain greater knowledge of fishery resources in the region of the Indian Ocean surrounding Madagascar.

*Article 3*

Upon expiry of this Protocol, the Parties will consult each other within the Joint Committee referred to in Article 9 of the Agreement in order to determine fishing rights for the remaining 18 months of the first period of application provided for in Article 14 of the Agreement, in the light of the results of the reconnaissance campaigns, and to fix the corresponding Community compensation.

---